

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2485 HJ • SB 257 - SB 312 • 2485

23 May 1983

Representative Charlie Bussell
Pouch V
Juneau, Alaska 99811

Re: Legislative Ethics -- SB 257 and HB 362

Dear Representative Bussell:

For the past two years, the FREE Committee has been concentrating on legislative ethics reform and is on record as recommending that a code of ethics be added to the Uniform Rules. Enclosure 1 is a copy of that recommendation.

The Committee recently completed a careful review of the ethics and conflict of interest laws in all 50 states and based upon that review identified several areas that should be addressed in any ethics legislation considered by the Legislature. Enclosure 2 is a copy of suggested changes to the existing Alaska law that was forwarded to the Joint Legislative Reform Committee in January.

In developing its recommendations, the FREE Committee was also concerned that amendments to the present law not become so restrictive that good legislators with other sources of income be prohibited from serving the public. Therefore, unlike the provisions in SB 257 and HB 363, the FREE Committee proposal would not prohibit public officials from obtaining loans or contracts from the state, so long as the suggested safeguards were incorporated.

We believe that public officials have the right to expect that ethical standards be clearly defined so that ethical problems can be avoided. With these things in mind, the Committee drafted language which if adopted would more clearly identify problem areas and which would provide for binding Attorney General opinions where the law is not clear.

The main difference between the FREE Committee proposal and the versions being considered by the legislature is that the FREE proposal addresses illegal activity and the legislative versions address improper but not necessarily illegal behavior. This distinction is significant, because the state constitution requires the legislature to be the sole judge of the improper behavior of legislators. By adding a code of ethics to the Uniform Rules, similar to that proposed in HCR 33 and SCR 21

(copies enclosed), the legislature could address infractions as a whole body, assigning various members the task of investigating complaints.

After careful consideration, the Committee rejected the approach taken in all versions of SB 257 and HB 362. This legislation would create a new commission whose main purpose is to evaluate and investigate legislator and legislative employee activities for conflicts and to recommend what action should be taken by Legislature. While this is a popular method chosen by other states and is superficially attractive, the Committee rejected this idea for four reasons.

First, this would unduly lengthen the process by creating another layer of government and since nearly every potential conflict would have to be run through the commission to determine whether there is in fact a conflict, the expense could be quite high. In fact, these bills should contain a fiscal note. Even after the process is completed, only the Legislature can finally decide whether disciplinary action should be taken.

Second, we are opposed to creating new governmental bodies if other less expensive and complicated approaches would provide the same or better results.

Third, this could result in politically motivated investigations and less than even handed treatment of persons who are investigated. While some of the versions envision a commission composed of a mix of legislators and citizens, the risk of politically motivated investigations is still real. Unless the citizen members were chosen from the population as a whole by lottery, they would be political creatures and not immune from political motivations.

Fourth, we believe strongly that a public official is a citizen who is serving the public and, therefore, deserves to know what activities are prohibited before being investigated. The present bills do not clearly identify improper behavior.

In summary, the FREE Committee believes that it is important to ensure that our legislators and their employees behave properly and avoid acting solely to enrich themselves. However, we believe that this goal can be accomplished with minimal rules and without creating a new and expensive body. The FREE Committee wants good legislators and, therefore, urges you to vote no on SB 257 and HB 362. We strongly believe no bill is better than a poor bill.

Sincerely,

Cheri C. Jacobus
Cheri C. Jacobus
Chairman, Legislative Study

General Federation of Women's Clubs
Anchorage FREE Committee

LEGISLATIVE STUDY COMMITTEE REPORT

Part I

Second Printing...January 1981

P.O. Box 4-2955
Anchorage, Alaska 99509

FREE Legislative Study Committee Members

Jan Faiks, Chairman

Jan Bomhoff, Vice-Chairman

Darlene Holt, Project Coordinator

Esther Brautigan

Teddy Cartwright

Connie Chambers

Betty Cuddy

Beth Henderson

Annie Laurie Howard

Pauline Martens

Priscilla Thorsness

Bobbye Young

Invited Participants

Bob Fleming - Resource Development Council

Cliff Groh - Former Legislator

Dave Harbour - Registered Lobbyist

Jean Peterson - Common Sense for Alaska

Contributing Legislators

Senator W. E. "Brad" Bradley

Senator Mike Colletta

Senator M. E. Dankworth

Senator Bettye Fahrenkamp

Senator Frank Ferguson

Senator Tim Kelly

Senator Patrick Rodey

Senator Terry Stimson

Senator Arliss Sturgulewski

Representative C. V. "Chat" Chatterton

Representative Samuel Cotten

Representative Richard Halford

Representative Joe L. Hayes

Representative Terry Martin

Representative Russ Meekins, Jr.

Representative Joe D. Montgomery

Representative Joyce Munson

Representative Randy Phillips

Representative Richard L. Randolph

Senator-elect Vic Fischer

Senator-elect Don Gilman

Representative-elect Mitch Abood

Representative-elect Charles Anderson

Representative-elect David Cuddy

INTRODUCTION

The Anchorage FREE Committee is the product of a nation-wide program designated by the General Federation of Women's Clubs. FREE is an acronym for "Federation's Role in our Enterprise Economy", and is dedicated to the preservation of America's enterprise economy. Through active participation in the GFWC FREE Enterprise Program, we can:

- make our nation's lawmakers aware of the impact which 600,000 Clubwomen can have by promoting the American Free Enterprise system.
- broaden public understanding of the American economic system.
- provide a mechanism by which GFWC members can become actively involved in the legislative process at federal, state and local levels.

The free enterprise system is the economic counterpart of a politically free society. It provides economic liberty, which means that the tools of production are privately owned; producers are free to produce and offer in a competitive market what they believe consumers want; consumers are free to buy what they choose.

While monitoring the activities of the Alaska State Legislature, it has become apparent to the members of the Anchorage FREE Committee that legislative rules (or lack of)

and procedures could be used to circumvent the wishes of the majority. Often, it seemed, important decisions and appropriations were made by a very few legislators. A dozen legislators in key positions distributed more than \$1½ million worth of non-competitive contracts and 20 lawmakers split \$3.2 million in interim committee funds, (ref. A.L. ALASKA WEEKLY, 6/27/80, 7/4/80; THE ANCHORAGE TIMES, 10/7/80). Since the political and economic structures of our American society are closely interrelated, each system must be preserved in order that the other might survive.

In an effort to educate ourselves as well as the citizens of Alaska, FREE formed a Legislative Study Committee in September of 1980. The purpose of the committee was to try to discover how policies and procedures of our state legislature might be modified or changed in order to make the legislative process run smoother, allow for additional public input, and make it less vulnerable to abuse.

We have interviewed or received written comments and suggestions from twenty-four legislators regarding our topics. Our sessions with the legislators, involving over 100 hours of discussion, were extremely productive and we are grateful for their willingness to meet with us and share their time and ideas.

At the request of several lawmakers during our discussions, FREE and Common Sense for Alaska have written all states requesting their uniform rules. We are currently

analyzing and comparing the other states' uniform rules to determine how they have avoided, through rules and procedures, problem areas which have surfaced in the Alaska Legislature. A complete report comparing these uniform rules will be made available at a later date.

On the basis of our research and discussions to date, however, FREE feels that there are some legislative rules that warrant immediate attention and change. We have included as much data from the rules of other states as is currently available. The following report deals with these recommendations.

SUMMARY OF RECOMMENDATIONS

The following points summarize the conclusions of this study:

- I. Two consecutive conference committees should be appointed, deliberate in good faith, and be unable to reach a compromise before granting powers of free conference to a third committee. Free conference powers would be granted for those specific areas of disagreement only. Non-germane amendments and sections would be prohibited. All conference or free conference bills should be printed and placed on legislators desks twenty-four hours prior to voting. All budget related conference committee meetings should be open to the public. (pp. 6-9)
- II. A simple "bill content" rule is needed to define "germane" and prevent bill "piggybacking" from occurring. The rule should read, "No bill shall be passed by either house containing more than one subject, which should be clearly expressed in the title." (pp. 10, 11)
- III. The public should be informed of the standing committee meetings and their agendas at least five days prior to the meeting. (pp. 12, 13)
- IV. The House and Senate Finance Committees should meet jointly for the purpose of holding public hearings or considering any proposed or pending legislation. (pp. 14, 15)
- V. The procedures of the standing committees are vital to the quality of legislation. Precise procedures involving a majority of the committee working in the open would serve to maintain and improve the integrity of the committee system. Fiscal impact statements and legislative intent should be included with all bills. The committee report should include one of three recommendations from each member - "do pass", "do pass as amended", or "do not pass". (pp. 16-18)
- VI. No interim committees should be provided except those authorized by the state constitution, or either or both houses jointly may by resolution or statute, provide for the appointment of interim committees. (pp. 19, 20)

- VII. The legislative session should be limited to 120 days. Any extension beyond 120 days should require a 2/3 vote of both houses and include a "limited call" provision. The extension itself should be for a specific number of days. (pp. 21, 22)
- VIII. In order to encourage the concept of a citizen legislature, there should be a limitation on the number of consecutive terms a Representative and Senator may serve. The recommendations are two 4-year terms for a Senator and four 2-year terms for a Representative. An individual could prolong his years of service by alternating legislative houses every eight years. (pp. 23, 24)
- IX. A Code of Ethics should be added to the uniform rules. General aspects should include a definition of ethical conduct, conflict of interest provisions, responsibilities of legislative staff in relation to campaigning and privileged information, and a section dealing with compensation for services rendered. A disciplinary mechanism should be established to deal with alleged violations. (pp. 25-27)
- X. A simple, precise procedure is needed in the awarding of legislative professional service contracts. Requesting committees and legislators should follow specific procedures in requesting professional services. The Legislative Affairs Agency or other existing agency should have the authority to advertise, select and monitor all contracts. (pp. 28-30)

I.

FREE CONFERENCE COMMITTEE

According to the majority of the responding legislators, the use of the FREE Conference Committee is the most abused and dangerous of our Alaska legislative procedures.

In the normal course of events, when a bill is passed by both the House and the Senate, but with differences, a conference committee is appointed. Members of both houses sit on this committee, and their responsibility is to reach a compromise based solely on the material appearing before them in the two bills. The conference committee must choose between two existing concepts, and cannot add new ideas or phraseology, (ref. New Hampshire Joint Rule 20(h), California Joint Rule 29.56).

If the members of the conference committee cannot agree on amendments, or one or both houses refuses to adopt its report, then a Free Conference Committee is appointed. Historically and traditionally, the granting of the powers of free conference is the absolute final step in resolving a deadlock. New language and information germane to the issue can be introduced in an attempt to reach a compromise. The granting of the powers of free conference appears to be a perfectly logical outgrowth of a conference committee which is unable to reach a compromise, (ref. Alaska Uniform Rule 41).

Unfortunately, the free conference committee has been widely abused in the Alaska legislature. Legislators are currently, even before the start of the new session, campaigning for spots on various free conference committees. The legislators are assuming that, first, the House and Senate will surely disagree on a bill, and secondly, that a conference committee will not be able to choose between the bills to arrive at a compromise. In Louisiana, specific guidelines set forth the selection of conference committee members, (ref. Louisiana House Rule 6.15). California prohibits powers of free conference on the budget bill, (ref. California Joint Rule 29.5(c)).

As a practical matter in Alaska, conference committees are "granted the powers of free conference" without going through the conference committee process. Therefore, a non-restricted free conference committee has enormous power to create, add, delete and alter bills without benefit of standing committee approval or public hearings.

Part of the problem with free conference committees is their lack of adherence to the word "germane". Webster defines germane as "closely related, appropriate, pertinent, to the point". At the present time, laws are passed that have no relation to the intent of the original bill, or amendments are added that are totally unrelated in context and intent to the rest of the bill.

Due to the problems encountered with the free conference committee and the lack of a clear, specific germaneness

rule which is adhered to by our legislators, it is tempting to recommend the total elimination of the free conference committee. In many of our sister legislatures in the Lower 48 (10 out of 15 studied), the powers of free conference are not allowed; if the conference committee cannot compromise, the bills are dead.

However, the FREE Committee feels it is not the powers of free conference that are the problem, but rather the guidelines for its use and strict adherence to "germaneness" which is badly needed in Alaska.

FREE recommends the following rule changes in the use of the conference and free conference committees:

1. Two consecutive conference committees should be appointed, deliberate in good faith, and be unable to reach a compromise before granting powers of free conference to a third committee. The specific areas of non-agreement would be clearly documented and signed by all conference committee members. Free conference powers would be granted for those specific areas of disagreement only. (Ref. North Carolina Assembly Rule 44(a-c), California Joint Rule 29, North Dakota Joint Rule 6(e), New Jersey Joint Rule 1-6, Pennsylvania Senate Rule 21(1-3).
2. Non-germane amendments and sections should be prohibited and not allowed under any circumstances. (Ref. New Hampshire Joint Rule 12 and 20(d)(e)(h), West Virginia Joint Rule 3).

3. All conference or free conference bills should be printed and placed on lawmakers desks twenty-four hours prior to voting. (Ref. New Hampshire Joint Rule 20(d)(e)(h), North Dakota Senate Rule 54, Pennsylvania Senate Rule 21.1-3).
4. All budget related conference or free conference committee meetings should be open and readily accessible to the public. (Ref. California Joint Rule 29.5(a)).

California has a very specific rule relating to appropriation bills which bears further investigation. Number 29 of the Joint Rules states,

"It shall require an affirmative recorded vote of 2/3 of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision".

Actually, there are several states that have other than majority vote requirements for appropriation bills. We feel this is an area that needs further investigation, and FREE will recommend rule changes on this topic in our next report.

II.

"BILL CONTENT" RULE

Currently, bill "piggybacking" is practiced in the Alaska Legislature, even though Alaska Uniform Rule 34 prohibits such action. This process adds non-germane amendments to existing bills in order to facilitate the passage of weak or controversial bills.

The potential for abuse is obvious in that a particular bill favored by a few can be piggybacked onto another popular bill favored by the public, and therefore be sure to pass. Or, non-germane amendments dealing with other topics can be piggybacked to not only facilitate their passage, but to prevent adequate public hearing on the topic to be added.

Many states have solved this problem by adopting in their joint rules a very simple, but certainly far reaching "bill content" rule. The FREE Committee highly recommends this or a similar rule to stop the piggybacking process.

Simply stated, and quoting from the Arkansas Joint Rules Sec. 4, "No bill shall be passed by either house containing more than one subject, which should be clearly expressed in the title". (Also ref. North Dakota Senate Rule 31d, West Virginia House Rule 97, Pennsylvania Senate Rule 14.3). All amendments must remain within the scope of the bill being considered, or all amendments must be "germane".

(Ref. North Dakota Senate Rule 49, Pennsylvania Senate Rule 15, California Joint Rule 9, North Carolina Assembly Rule 45, Washington House Rule 31, West Virginia House Rule 113, Main Senate Rule 11).

Legislators could then vote on the merit of a bill without having to consider the political consequences of a piggyback, and the rights of the majority would be protected. Each piece of legislation should be considered on the basis of its own merit. (Ref. West Virginia House Rule 62, New Hampshire Joint Rule 11, Florida House Rule 11.8, Washington House Rule 31).

III.

PRIOR NOTICE OF COMMITTEE MEETINGS AND AGENDA

At the present time, there is not adequate prior notice of committee meetings and their agendas. Citizens with interest in a particular bill are often unable to adequately respond in writing or in person unless advance notice is given.

There, FREE recommends the public be informed of the standing committee meetings and their agendas at least five days prior to the meeting. (Ref. North Dakota Senate Rule 43, Arkansas Senate Rule 33, New Jersey Rules of Assembly 10.6, California Joint Rule 36(2), Pennsylvania Senate Rule 16.8, Florida House Rule 6.18, Washington House Rule 78). In an emergency, 2/3 majority of the committee can vote to suspend the public notice rule. (Ref. Arkansas Senate Rule Sec. 33). Public notice and agendas could be placed in the press room and throughout the network of legislative information offices. (Ref. North Carolina Assembly Rule 143-318:12).

FREE feels that there are a great many advantages that would occur as a result of this prior notice. Legislation would have the benefit of additional public scrutiny by allowing for more public input. Legislators would be forced to pre-plan their schedules, which would in turn result in a more organized committee system, and help to alleviate some of the "end of the session crunch".

FREE is aware that there will be protests that one cannot give advance public notice of committee meetings and still expect the legislature to complete its work in 120 days as recommended elsewhere in this report. Certainly it may not be easy at first, but the need for the public to be better informed must take precedence over legislative convenience.

Note: The State of Pennsylvania requires 30 days published notice in the locality affected by a bill prior to its introduction, (ref. Pennsylvania Senate Rule 5, and also Florida House Rule 7.4).

IV.

FINANCE COMMITTEE REFORM

FREE recommends that the House and Senate Finance Committees meet jointly for the purpose of holding public hearings or considering any proposed or pending legislation. (Ref. California Joint Rule 37).

A joint hearing would eliminate the need for state agencies, municipalities, school districts and other entities requesting funds to travel and testify, twice. The financial savings would be significant to the agencies and both houses would receive the same budgetary information. This is a worthwhile consideration for other committees as well. (Ref. Arkansas Joint Rules Sec. 25, New Hampshire Joint Rule 14, California Joint Rule 3, Louisiana Senate Rule 66 and House Rule 6.27, Maine Joint Rule 13, West Virginia Joint Rule 11, 19).

By meeting jointly, coordination of action by the two houses should become automatic and efficiency in pursuing budget matters should be enhanced. A time table should be set early in the session by the Joint Finance Committee for the finalization of the budget. (Ref. Arkansas Senate Rule 93(J)). Every new item added to the budget should list program implications, back-up material, criteria and fiscal impact.

Historically, the budget derives from the governor's initial budget proposal submitted to each new session of

the legislature. Literally thousands of hours have gone into the preparation and justification of this budget by administrators and their staffs throughout the state. After in-depth review by the separate House and Senate Finance Committees, different versions of the budget are passed in each house, and thus the budget ends up in a free conference committee.

It is in the free conference committee that budgetary abuses occur. New items are added based on political motives and "a slice of the pie" theory. There seems to be little or no research done on these new items, and some justification of the new items is not made apparent. Some states have a constitutional limit on such appropriations. (Ref. Arkansas Senate Rule 93(L)). Hopefully, a Joint Finance Committee can work to decrease these abuses and eliminate the need for the budget free conference committees.

V.

STANDING COMMITTEES

The procedures of the standing committees are vital to the quality of legislation, as well as the efficiency and organization of the entire legislature. Legislators should strive to maintain and improve the integrity of the committee system.

FREE feels the following recommendations would enhance standing committee operations:

1. All bills introduced in the name of the committee should have the prior approval (of introduction) by a majority of the committee members. (Ref. Louisiana House Rule 8.14, California Joint Rule 10.7, Florida House Rule 7.1-, Washington House Rule 79).
2. At least a majority of all members constituting a standing committee should be required to report a bill out of committee. (Ref. Pennsylvania Senate Rule 16.16, Arkansas Senate Rule 34(d) and 36, New Jersey Rules of Assembly 10.6, California Joint Rule 62.(c), Florida House Rule 6.32).
3. No action should be taken on any measure outside of a duly constituted committee meeting in which a quorum is present, and such meeting should be open to the general public. (Ref. Washington House Rule 79, Florida House Rule 6.25, New Jersey Rules

of Assembly 10.5, West Virginia House Rule 83, Nevada Senate Rule 13 and 53).

4. Elimination of public hearings or similar measures which detour or abbreviate the bill process should be avoided. (Ref. Louisiana House Rule 6.11, New Jersey Rules of Assembly 10.5, Washington House Rule 79).
5. Any bill or resolution which would have fiscal impact on the state should have a note stating a reliable estimate of the fiscal effect of such a bill. This information could be prepared by the Legislative Finance Division. (Ref. Louisiana Joint Rule 44, New Hampshire Joint Rules 5-a, New Jersey Rules of Assembly 10:11, 15:2(a)-15:2(g), California Joint Rule 37.1, Maine Joint Rule 20, West Virginia House Rule 95a, Florida House Rule 7.16, North Carolina Assembly Rule 38, Delaware House Rule 23).
6. Each committee report should include one of three recommendations from each member - "do pass", "do pass as amended", "do not pass". We feel "no recommendation" should not be allowed, since a committee member who has participated in the public hearings and committee deliberations should be able to make a specific recommendation in the committee report. (Ref. Arkansas Senate Rule 34(a), New Jersey Rules of Assembly 10.6, West Virginia House

Rule 98, Delaware House Rule 17(d), North Carolina Assembly Rule 36, Florida House Rule 6.34, Pennsylvania Senate Rule 16.12).

7. Each committee report should include a statement of the legislative intent of all bills that address themselves to major innovation or change in public policy. (Ref. Florida House Rule 6.33, Arkansas Senate Rule 34(c), New Jersey Rules of the Assembly 15:4, Maine Joint Rule 31, Delaware Senate Rule 8).

Many states have deadlines for reporting bills out of the standing committee to which they have been assigned. (Ref. New Hampshire Joint Rules 10(a-c), North Dakota Senate Rule 38 and 44, Florida House Rule 6.29, Maine Joint Rule 13). In addition, there are early deadlines for the introduction of bills. (Ref. Louisiana Joint Rule 5, New Hampshire Joint Rule 12, Arkansas Joint Rule Sec. 19 and 24, West Virginia Senate Rule 14, Washington House Rule 19). If the standing committees in the Alaska Legislature are having problems organizing and accomplishing their work loads, further consideration should be given to these concepts.

VI.

INTERIM COMMITTEES

According to the majority of legislators interviewed, interim committees are primarily needed and used by legislators to keep good staff year-round, to reward political supporters and to meet the demands of their constituents during the interim. FREE feels that interim committees are not being used in ways that benefit the citizens of Alaska.

Used wisely and with restraint, interim committees could be a legitimate tool of the legislature, but recent legislatures have used them with neither wisdom nor self-restraint. Dissatisfied voters have rejected propositions in 1978 and in 1980 to expand and legitimize interim committees.

FREE recommends that no interim committees be provided except those authorized by the state constitution.

In those cases where there is a need to study or promote a topic, the task can simply be assigned to the appropriate standing committee which has a professional staff, or the legislators can authorize an interim committee by statute. (Ref. California Joint Rule 36, Statutes of Nevada 1968, 1973). This insures that a majority of legislators must agree to the necessity of an interim committee prior to its creation.

In both cases the assumption is made that the request be substantiated by a clear purpose and objective, statement of who will do the work, budget limitations, and reporting procedures. The committee ceases to exist upon completion of its task.

During the discussion on interim committees, there was a great deal of time spent evaluating the demands made on legislators by their constituents between sessions - phone calls, answering mail, attending meetings and generally being responsive to the public. The suggestion was made that secretarial help or legislative aides be provided. FREE does not recommend such staff at this time. The feeling is that meeting these needs is part of the job of being an elected citizen legislator, and that those for whom this is a burden should perhaps reconsider their availability to serve.

VII.

LIMIT ON LEGISLATIVE SESSION

There seems to be growing support throughout the state for imposing a limit on the number of days allowed for each legislative session. FREE concurs with this sentiment, and proposes a limit of 120 days. (Ref. Wyoming State Constitution, Florida State Constitution, Nevada State Constitution). Any extension beyond 120 days should require a 2/3 vote of both houses, and should include a "limited call" provision, whereby the topics to be addressed must be limited and pre-stated, and the extension itself should be for a specific number of days. (Ref. New Hampshire Joint Rule 24).

FREE feels that a session limit would enhance the concept of a citizen legislature, in that a shorter (the tendency has been for longer and longer sessions) and specific time frame would facilitate participation as lawmakers by a greater number of citizens.

The Alaskan legislature has the distinction of being the most costly (per capita) of any state in the union. A limited session would be cost efficient in that salaries, per diem, rents and other costs related to time would be decreased.

A limited session would encourage legislators to work together as a matter of expediency. A deadline

necessitates working and accomplishing goals in the most efficient and organized manner.

Perhaps the quality of legislation would be enhanced. Only those issues which have broad support and concern would be brought before the legislature. There would be less time to create problems where none exist.

Finally, a limited session would help to stop the growing talk from legislators of the need for a full time staff and legislature. The staff, in turn, would be better able to plan for additional employment after the session.

VIII.

LIMIT TERMS OF OFFICE

The FREE Committee strongly believes in the concept of a citizen legislature versus professional lawmakers. For this reason, and others, FREE feels that there should be a limitation on the number of terms a Representative and Senator may serve. Surprisingly, a good portion of the responding legislators favored this concept.

FREE feels that a limitation would serve as an incentive for more citizens to seek elective office - the perception being that incumbents are generally pretty difficult to unseat. New faces bring fresh approaches to programs and issues, needed at all times, but especially now in Alaska with its vast natural resource wealth.

When legislators remain in one house for a long period of time, excessive power over colleagues and staff seems to develop, as do legislative cliches. By dispersing the concentration of power, it will be more difficult for a handful of "long time" legislators to control legislation contrary to the wishes of the majority.

One legislator commented during the discussions that it was difficult for even the "good guy" legislators to remain free of obligations to their colleagues. In the lawmaking process there is always give and take, and legislators who have been on the job for a long time will inevitably build up a certain amount of "favors due" and

"favours owed", so that it becomes increasingly difficult to judge matters under consideration solely on their merit.

FREE recommends the following limitations on the terms of office:

1. Senate - two 4-year consecutive terms.
2. House - four 2-year consecutive terms.
3. Present incumbents would begin counting their terms with the effective date of the law.

Using FREE's formula, legislators popular with their constituents could remain in the legislature, but would have to change Houses every eight years. Thereby, the right of the citizen to choose his lawmakers remains intact.

CODE OF ETHICS

Any public office holder in a free government is entrusted with the security, safety, health, prosperity and general well-being of those whom he serves. With such a trust, high moral and ethical standards which produce the public's confidence should be the goal of every legislator.

FREE recommends that a code of ethics or standards of conduct be added to the uniform rules. Parameters for acceptable and unacceptable behavior must be drawn so that legislators know what kind of behavior to expect from one another. It is difficult to confront and correct unethical activities until the guidelines are drawn and understood by all.

General aspects of the Code of Ethics should include, but not be limited to, the following:

1. Any conflict between private interests and official duties must be avoided. No state legislator should accept any employment which could impair his independence and integrity of judgment nor should he exercise his position of trust to secure unwarranted privileges for himself or others. (Ref. Maine Legislative Code of Ethics, New Jersey Legislative Code of Ethics 2:1.a, California Joint Rules 44.(a)).

2. Members of the legislature should not directly or indirectly receive or agree to receive any compensation for any services which one knows or has reason to believe is given with the intent of influencing him in the performance of his duties as a legislator. (Ref. New Jersey Legislative Code of Ethics 2:1.6, California Joint Rules 44.(3)).
3. Legislators should be directly responsible for the ethical conduct of their staff. (Ref. California Joint Rule 44(f), Florida House Rule 5.11).
4. Legislators should notify the leadership prior to taking any action or voting upon any bill in which he or any member of his immediate family has a personal or professional interest which ensures his private gain or the gain of any principal by whom he is retained or employed. The legislator should disqualify himself from the vote in which he has a conflict of interest. (Ref. Florida House Rule 5.10, California Joint Rules 44.(s), Pennsylvania Senate Rule 22.2, Washington State Constitution Article 2, Sec. 30).
5. Legislative staffs should not be assigned to campaign or fund raising duties; legislative staff should not be considered to be political organizations.

6. Legislators should be prohibited from raising campaign funds during the legislative session.

(Ref. New Jersey Legislative Code of Ethics 2:10.)

New Jersey has developed a comprehensive manual entitled "Legislative Code of Ethics" which would serve as an excellent resource instrument. In addition, North Carolina includes with their General Statutes a thorough "Code of Legislative Ethics".

It follows that once a Code of Ethics is established, some sort of mechanism needs to be implemented to deal with alleged violations. Many states have detailed disciplinary procedures which would make excellent guidelines. (Ref. Pennsylvania Senate Rule 37, 38, Illinois House Rule 12, New Jersey Joint Rule 19(a,b), California Joint Rule 45(a-p), North Carolina General Statutes Article 14, Part 3).

X.

PROFESSIONAL SERVICE CONTRACTS

FREE feels it is extremely important that the new legislature adopt very specific professional service contracting procedures. We are gratified by the concern expressed by many legislators in relation to this subject, but the voiced concern must be developed into a solid, practical set of rules.

FREE recommends the following guidelines:

1. The Legislative Affairs Agency or another existing agency should be in control of all professional service contracts. (Ref. New Jersey Rules of Assembly 10:12).
2. The purposes and objectives of the professional service desired should be clearly defined in written form by the committee or legislator requesting the service, along with a statement of reasons why the administration or legislative staff could not meet the need.
3. The parameters and scope of the service required should be pre-determined and included in the written request.
4. A time frame for commencement and completion should be indicated.
5. The request, including items 2-4, should be forwarded to the controlling agency.

6. The agency should advertise throughout the state.
7. The agency should analyze the bid proposals, ranking the proposals in 1, 2, 3, . . . order.
8. A contract would be negotiated by the legislative agency with the #1 responder, moving on to #2 or #3 until a satisfactory contract is negotiated.
9. The agency should monitor the project and determine if the finished product meets the desired and stated criteria prior to any disbursement of funds.
10. A report should be made available to the public no later than 10 days after it is due to the committee.
11. The final report should include on the title page the name of the requesting committee, the name of the firm providing the service, and the total cost of the report or project.
12. Some provision must be made for needed emergency information when the above procedures cannot, for reasons of time, be followed. FREE suggests any professional service contract needed which cannot follow the prescribed procedures must be approved by 2/3 vote of the house requesting the service.
13. Contracts may be entered into without going through steps 6 and 7 provided the amount of the contract does not exceed \$2,500, and no one

entity receives contracts in excess of \$10,000
in each calendar year.

CONCLUSION

Throughout history, frustration and apprehension have been felt by citizens of their states regarding the actions taken by their state legislatures. Numerous examples of misdeeds have aroused public outcry, which in turn has resulted in changes in procedures.

In comparison to its sister legislatures in the Lower 48, the Alaska State Legislature is a young entity. Currently, the Alaska legislature is undergoing "growing pains", but under a different, and more difficult, set of circumstances than those of other states.

In the Lower 48, legislative activity was, and still is, watched by dozens of news reporters representing numerous small towns and counties, as well as the larger metropolitan areas. This results in close scrutiny of legislative activity, and a better informed public.

Closely tied in with media coverage is the accessibility of the legislative halls to the general population, which also leads to closer scrutiny of legislative activities and greater awareness by the general public of their elected representative's activities.

Finally, when comparing Alaska's legislature with that of other states, one very significant factor is without precedent - no other state has ever had such a huge budget surplus, per capita.

A blessing, yes, and yet a potentially destructive force demanding extreme caution in its management.

Because of these differences, it is incumbent upon our elected officials to follow sound, accountable legislative procedures. While other states have undergone a gradual maturation process over the years, we do not have that luxury. Alaska's state government must do in a couple of years what other states have done in at least sixty years or more (excluding Hawaii).

This, then, is a major challenge facing our Alaska State Legislature. It will require changes in thinking and in ways of conducting legislative business. But the people of Alaska, and our elected officials in particular, are not unfamiliar with challenges. Citizens and legislators, working together, have an opportunity to create a noble and splendid existence.

BIBLIOGRAPHY

Parliamentary Manual of the Senate, 72nd General Assembly,
State of Arkansas.

Permanent Standing Rules of the Assembly, State of
California, 1979-80 Session.

Delaware State Senate Rules, State of Delaware.

House of Representatives 130th General Assembly Rules,
State of Delaware.

The Rules, 1980, Florida House of Representatives.

State of Illinois, House of Representatives Rules of the
81st General Assembly.

State of Illinois, Rules of the Senate of the 81st General
Assembly.

Rules of Order of the House of Representatives, 1980,
State of Louisiana, (Rev. June 1, 1980).

Rules of Order of the Senate, State of Louisiana, (Rev.
April 23, 1980).

109th Legislature, State of Maine, 1979 Senate and House
Registers.

Joint Rules, State of New Hampshire, 1979.

Rules of the House, State of New Hampshire, 1979.

Rules of the Senate, State of New Hampshire, 1979.

House Rules, State of Nevada, September, 1980.

Joint Rules, State of Nevada, September, 1980.

Senate Rules, State of Nevada, September, 1980.

Legislative Code of Ethics, State of New Jersey,
1980-81.

Members and Officers Rules Committees, New Jersey State
Senate, 199th Legislature, 1st Session, 1980.

State of New Jersey, Rules of the General Assembly, 198th
Legislature, 1978.

1979 North Carolina General Assembly House of Representatives
Rules Directory.

1979 North Carolina General Assembly Senate Rules Directory.

46th Legislative Assembly, State of North Dakota, Senate
and House Rules and Committees, 1979.

Rules of the House of Representatives, Commonwealth of
Pennsylvania, 1979.

Rules of the Senate, Commonwealth of Pennsylvania, 1980.

Permanent Rules of the House of Representatives, 46th
Legislature, State of Washington, 1979.

Permanent Rules of the Senate, 46th Legislature, State
of Washington, 1979.

Rules of the 64th Legislature of West Virginia, 1979-80.

Rules, Senate and House of Representatives, 44th State
Legislature, State of Wyoming, 1978.

DELETIONS ARE BRACKETED AND ADDITIONS ARE UNDERLINED

(The following section changes filing requirements for the Alaska Public Offices Commission to be consistent with the other changes. Primarily these changes address inequities created by the law's requirement that nondependent children's income and spousal income be reported but not that income of persons living together. The changes are less wordy and the dollar amounts are more realistic.)

* Section 1. AS 39.50.030 is amended to read:

Sec. 39.50.030. Contents of Statements. (a) Each statement shall be an accurate representation of the financial affairs of the public official or candidate and shall contain the same information for each member of his family or household as [specified in (b) of this section] defined in AS 39.50.200, to the extent that it is ascertainable by the public official or candidate. [An asset or liability under \$500, household goods, and personal effects need not be identified.]

(b) Each statement filed by a public official or candidate under this chapter shall include:

(1) the source of all income over [\$100] \$500, including capital gains, whether or not taxable, received by him [or his spouse or dependent child of his or nondependent child of his who is living with him during the preceding calendar year] , his family or member of his household;

(2) the identity, by name and address, of each business in which he or [his spouse or dependent child of his or nondependent child of his who is living with him] his family or a member of his household was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year;

(3) the identity and nature of each interest owned by him or [his spouse or dependent child of his or nondependent child of his who is living with him,] by his family or by a member of his household, in any business during the preceding calendar year;

(4) the identity and nature of each interest in real property, including an option to buy, owned by him or [his spouse or dependent child of his or nondependent child of his who living with him,] by his family or by a member of his household during the preceding calendar year;

(5) the identity of each trust or other fiduciary relation in which he [or his spouse or dependent child of his or nondependent child of his living with him,] his family or member of his household, held a beneficial interest during the preceding calendar year, a description and identification of the property contained in each trust or relation and the nature and extent of the beneficial interest in it;

(6) any loan or loan guarantee made to him or [his spouse or dependent child of his or nondependent child of his who is living with him,] to a member of his family or household and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom he or [his

spouse or dependent child of his or nondependent child of his who is living with him] a member of his family or household owed \$500 or more;

(7) a list of all contracts and offers to contract with the state, or an instrumentality of the state, during the preceding year, held, bid or offered by him, [his spouse, dependent child of his or nondependent child of his who is living with him, his mother or father] a member of his family or his household or a partnership or professional corporation of which he is a member, or a corporation in which he or [his spouse or his children] a member of his family or household, or a combination of them, hold a controlling interest; and

(8) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by him, [a dependent child of his or nondependent child of his who is living with him, his mother or father] a member of his family or his household or a partnership or professional corporation of which he is a member, or a corporation of which he or [his spouse or his children,] a member of his family or his household, or a combination of them, hold a controlling interest.

(The following section is rearranged, sections are added to make the law clearer, and certain activities would be punished as felonies. It should be noted that the present versions of SB 257 and HB 362 allow the legislature to impose a fine of up to \$50,000.)

* Section 2. AS 39.50.090 is repealed and reenacted to read:

AS 39.50.090. Prohibited Acts. (a) Violation of this sub-section is a class C felony, punishable by a fine of not less than \$5,000, nor more than \$50,000, by imprisonment of up to 5 years, or by both.

(1) No public official may use his official position or office for the primary purpose of obtaining any financial or other type of benefit for himself, a member of his family or his household or business with which he or his family or household is associated or owns stock.

(2) No public official or former public official shall disclose any information which by law or practice is not available to the public and which he acquired in the course of his official duties or use of the information for his personal gain or the benefit of anyone.

(b) Violation of this sub-section is a misdemeanor, punishable by a fine of not less than \$500, nor more than \$2,000, by imprisonment up to one year, or by both.

(1) No person may offer or pay to a public official and no public official may solicit or receive money for legislative advice or assistance, or for advice or assistance given in the course of the official's public employment or relating to his public employment. However, this prohibition does not apply to a chairman or member of a state commission or board or municipal officer of the subject matter of the

legislative advice or assistance is not related directly to the function of the commission, board, or municipal body served by the municipal officer; this exception from the general prohibition does not apply to one whose service on a state commission or board constitutes him a full-time state employee under AS 39.

(2) No public official may represent a client before a state agency for a fee. However, this prohibition does not apply to a municipal officer, or chairman or member of a state commission or board except with regard to representation before his own commission or board; this exception from the general prohibition does not apply to one whose service on the commission or board constitutes him a full-time state employee under AS 39.

(3) A former public official may not assist any person, business, instrumentality of the state or act in a representative capacity for a fee or other consideration, on matters in which he personally participated as a public official, nor may the former public official within twelve months after termination of office or employment act in a representative capacity for a fee or other consideration before any state agency. This subsection does not prohibit any agency from contracting with a former public official on a matter on behalf of the state and does not prevent the former public official from appearing before any agency with relation to such employment.

(4) A public official may not apply for a loan from a state agency unless the application is simultaneously filed with the commission. A state agency may not approve a loan to a public official who fails to file the application with the commission and a state agency may not grant special consideration to the application of a public official.

(5) No public official, member of his family or household, or business with which he, his family or household, is associated may enter into any contract with the state, valued at \$100 or more, other than a contract of employment as a state employee or pursuant to a court appointment, unless the contract has been awarded in compliance with existing state law in an open and public process, including prior public offer and subsequent public disclosure of all proposals considered and the contract awarded. A member of the legislature shall simultaneously file the offer to contract with the commission; if the offer to contract is a sealed bid, the commission may not open the offer to contract until after the offer to contract has been opened by the agency receiving the offer to contract. A state agency may not award a contract to a public official or to a person known to be a member of the family or of the household of a public official or to a business that is associated with the public official or with a member of the family or of the household of a public official unless the offer to contract is filed with the commission.

(6) No member of the legislature, person acting on behalf of a member of the legislature, member of the legislator's family or household may solicit funds for political contributions to the campaign treasury of the member of the

legislature during a legislative session. Both the legislator and the person soliciting the contribution are liable and subject to penalty for any violation of this subsection.

(c) In this section, "public official" includes, in addition to the persons specified in AS 39.50.200(a)(1), chairmen and members of all commissions and boards created by statute or administrative action as agencies of the state.

(d) No municipal officer may represent a client for a fee before the municipal body which he serves.

(The following section provides for advisory opinions from the Attorney General to help public officials from inadvertently violating the conflict of interest law. This approach is followed in a number of different jurisdictions.)

* Section 3. AS 39.50.095 is added to read:

Sec. 39.50.095. Attorney General Opinion. If any public official or member of his family or household or business with which he is associated is in doubt whether a proposed transaction or action constitutes a violation of this chapter, the public official or business may request in writing a written determination from the Attorney General's office. Within thirty days of such request, the Attorney General's office shall issue a written opinion based on the facts recited by the requester. If a legislator is involved, this advisory opinion shall be published in the daily legislative journal. A public official or business with which he is associated shall not be liable under this chapter, for any action or transaction carried out in accordance with such an advisory interpretation, provided he disclosed all the known facts to the Attorney General at the time of the request.

* Section 4. AS 39.50.200 (a)(8) is amended to read:

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is self employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which he [or his spouse or his children,] his family or a member of his household, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

* Section 5. AS 39.50.200 (a) is amended by adding new paragraphs to read:

(10) "member of his household" means any person whose permanent address is the same as the public official's permanent address or anyone who actually resides in the same household;

(11) "family" includes mother, father, spouse, children, parents in law;

(12) "financial gain" means economic benefit resulting from salary, gratuity, gift, or other compensation or remuneration from any individual, partnership, organization or association, or resulting from ownership or interest in a business entity.

Alaska State Legislature

IN SESSION:
POLICK: V
JUNEAU, ALASKA 99811
(907) 465-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: Representative Randy Phillips *R.E.P.*

DATE: May 25, 1983

RE: Conflict of Interest Legislation
(House Bill 362, CSSB 257 (Jud) am)

Attached are the following items for your committee's review:

1. Memorandum dated May 24, 1983, entitled "Comparison of CSSB 257 (Jud) am and SB 257. As you know, SB 257 is the same as House Bill 362.

Attached to this memorandum is a copy of CSSB 257 (Jud) am in which the changes from SB 257 to the Senate-passed version have been highlighted.

2. Memorandum dated May 25, 1983, comparing the Legislative Ethics Commission as proposed in HB 362/SB 257 and the Select Committee on Legislative Ethics as proposed in CSSB 257 (Jud) am.

If you have any questions, please do not hesitate to contact me. I plan on being in attendance at this Friday's meeting when I understand this subject matter will be before your committee.

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

TO: All Legislators

FROM: Representative Charlie Bussell

RE: Conference Committee on SB 257 - Ethics

DATE: March 22, 1984

I would like to inform you that today at 3:00 p.m. there will be a meeting of the Conference Committee on SB 257, ethics. The meeting will be held in Judiciary Committee Room, Room 124 of the Capitol. The committee consists of myself, Rep. Bussell, Rep. Martin, Rep. Flood, Senator Ray, Senator Mulchay, and Senator Gilman.

Previously Senator Ray has distributed amendments for consideration.

Attached you will find a CS that I am proposing.

I am sure the committee will appreciate your attendance and comments on this legislation.

A M E N D M E N T

Offered in the SENATE

By Ray

TO: CCSSB 257

Page 3, line 16, following "norm;" delete "or"

Page 3, line 17, delete "." and insert "; or"

Page 3, following line 17, insert:

"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

Page 3, lines 19 and 20 following the word "event", delete:

"held within the City and Borough of Juneau"

Page 6, lines 18-20, following the word "form", delete:

", in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year"

Page 7, line 8, following the word "sister", delete the word "or" and following the word "brother" insert "or spouse-equivalent"

Page 8, line 12, following "six", insert "legislative"

Page 8, line 12, following the word "members", insert:

"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

Page 8, line 21, following "two", insert "legislative"

Page 9, line 2, following "A", insert "legislative"

Page 9, line 8, following "When a", insert "legislative"

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1984

SUBJECT: Sectional Analysis

TO: Conference Committee on SB 257

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested that I prepare a sectional analysis on CCS SB 257 and note changes from the Senate version, CSSB 257 (Jud) am and the House version, HCS CSSB257 (Jud) am H.

Sec. 24.60.010 set out the legislative findings and purpose. It states that it is essential that legislators have the respect and confidence of the people, must avoid conduct that appears to violate the trust of the people and should have specific standards to guide them. The purpose is stated to be to establish standards of conduct for legislators and legislative employees and to establish the Select Committee on Legislative Ethics to consider violations and to render advisory opinions.

* Except for the committee name all three versions are essentially identical.

Sec. 24.60.020 provides the chapter applies to legislators and permanent or temporary employees of an agency of the legislature, excludes former members and former employees except to the extent they are specifically included in a provision, excludes members elect and excludes employees whose pay is below the pay established for Step A, Range 18 of the state salary schedule. It provides this section supersedes common law but does not supersede criminal law.

* The House version excludes employees from the nepotism provision, the Senate bill includes them and the Conference Committee bill also does. Otherwise the three are essentially identical.

Sec. 24.60.030 relates to conflict of interest

(a) Provides that a person may not use public office for private advancement or gain.

* This is identical in all three bills.

(b) Provides that a conflict of interest exists when a person takes official interest or exerts influence that could benefit or harm a private financial matter of the person.

* This is identical in all three bills.

(c) Prohibits conflict of interest but sets out two exceptions where there is no substantial impropriety or appearance of impropriety.

* This is identical in all three bills.

(d) provides that a conflict of interest exists if benefits accrue to a person other than those which accrue uniformly to a group to which the person belongs.

* This is identical in all three bills.

(e) provides that a conflict of interest does not exist if a person accepts hospitality at another persons residence within the state, generally available discounts, meals or social events which do not exceed \$100.00, indigenous food or gifts from a person's family.

* This is identical in all three bills.

(f) provides it is a conflict of interest for a legislator to accept money raised at a fund raiser in Juneau during the session.

* This is identical in all three bills.

* The Senate version allows the committee to establish, with approval of the legislature, additional policies that limit the extent by which a person may accept benefits under (e). The House bill and the Conference Committee bill do not contain this.

Sec. 24.60.040 relates to contracts and leases.

(a) Provides that a person may not be a party to or have an interest in a state contract or lease unless

(1) The contract or lease is let by competitive bidding.

(2) The amount is \$1,000,00 or less.

(3) The contract or lease is standardized and available to the public or to a group generally.

This applies when the person receives a direct or indirect financial benefit under the contract or lease. (b) defines direct or indirect financial benefits.

* The exception for a standardized contract or lease is not contained in the House bill. Otherwise the three bills are essentially identical.

Sec. 24.60.050 relates to state loans.

(a) Provides that it is not a conflict of interest to receive a state loan if the loan is generally available, has fixed eligibility standards and minimal discretion is exercised in determining qualifications. It also requires the Committee to issue a list of programs and loans it considers to meet the standards of this paragraph and revise the list annually.

* The Senate bill does not contain the list requirement which is in the House bill and the Conference Committee bill.

(b) In determining whether a conflict of interest exists the committee must consider the adequacy of administrative procedure for granting and reviewing loans to legislators but is not limited to considering only that.

* In the Senate version this paragraph applies only to legislators. In the House version and the Conference Committee version it applies to all persons covered by the bill.

(e) requires that upon application for a loan, other than a loan described in (a) the person shall send a notice of the application to Alaska Public Offices Commission which will incorporate that in the financial disclosure statement. If the person is not required to file a disclosure statement the notice must be placed in an employee loan file open to the public. All records relating to a loan may be disclosed to the committee.

* The House bill does not contain the provision that all records relating to the loan may be disclosed to the committee which is in the Senate bill and the Conference Committee bill. The Senate bill requires the copy of the application be sent by the lending agency and the House and Conference Committee bill requires it be sent by the person involved. Otherwise this paragraph is identical in each of the bills.

(d) requires that on each February 1, each loan agency must deliver a list of loans to the presiding officer of each house, set out what must be included in the list and provides the list must be published in the supplemental journal.

* This paragraph is identical in each of the bills.

(e) requires the Division of Legislative Audit to annually review state loans to persons to whom this chapter applies to determine whether appropriate procedures were observed in granting the loan and whether loan conditions are being enforced. The division must report its findings to the committee by April 1, of each year.

* The Senate bill requires the auditor to determine whether appropriate procedures were observed in granting the loan. The House bill requires the auditor to determine whether loan conditions are being enforced. The Conference Committee bill requires both.

(f) Defines state program.

* This paragraph is identical in each bill.

* The Senate version requires the lending agencies to adopt regulations that establish separate procedures for granting and reviewing loan to persons to whom this chapter applies.

This requirement is not in the House or Conference Committee bill.

Sec. 24.60.060 provides it is a conflict of interest if a person uses for personal gain of the person or another confidential information the person acquired in the course of official duties.

* This section is identical in each bill.

Sec. 24.60.070 requires disclosure of a close economic association with an employee, and a supervisor if the supervisor is not a member of the legislature, a legislator, a public official in another branch if the public official is required to file a disclosure statement or a lobbyist.

* The House version does not contain this requirement. The Senate version does not explicitly exclude legislators from the supervisor-employee provision.

Sec. 24.60.080 provides that a person may not solicit a gift in any amount or accept a gift in excess of \$100.00 or in the aggregate in excess of \$250.00 during a calendar year if the gift was intended as a reward or inducement for official action. A gift of travel and hospitality within Alaska received by a member of the legislature in obtaining information of legislative concerns and political contribution reported under AS 15.13.040 are not prohibited.

* The Senate bill has no dollar limitation and does not have the term "inducement". The House bill prohibits gifts under circumstance in which it may reasonably be inferred that the gift was intended to influence a person in the performance of official duties and specifically sets out exceptions.

Sec. 24.60.090 prohibits employment of relatives in specified circumstances. A spouse of a legislator may not be employed by either house during the interim or by an agency of the legislature. Other relatives may not be employed in the house in which the related legislator is a member, by an agency of the legislature or by the other house during the interim. An individual who is related to an employee of the legislature may not be employed in a position over which the employee has supervisory authority. The section defines relative. It provides that for this section a person is not employed if the person does not receive compensation and

that a member of the legislature is, for purposes of this section, not an employee of the legislature.

* The provision relating to employment of a spouse during the session is not in the Senate bill or the House bill. Both the House bill and Senate bill include "a member of the same household" in the definition of relative which is not included in the Conference Committee bill. The term "adopted child" is specifically included in both the House and Senate bill but in the Conference Committee bill this term is subsumed under the word "child".

Sec. 24.60.100 requires that a person who represents another person before an agency of the state for compensation shall disclose the representation in the journal if the legislature is in session and, if not, to the committee. The committee must maintain a record of the disclosures and send them to the house involved for inclusion in the journal for the first day of the session.

* The Senate version is identical. The House version prohibits representation before an agency of the state for compensation except in court actions and actions which were pending at the time the person was elected or employed.

Sec. 24.60.110 provides that a legislator who has a conflict of interest shall resign the conflict of interest, divest the interest or disclose the interest in the journal or, if the legislature is not in session to the committee. Disclosure does not remove the conflict.

* Neither the House or Senate bill contains the provision that disclosure does not remove the conflict. Otherwise the three versions are identical.

Sec. 24.60.120 provides a person may not use state funds or state property, except under lease, for private gain.

* This section is identical in all three versions.

Sec. 24.60.130 establishes a Select Committee on Legislative Ethics consisting of three members from each house with a Senate and House subcommittee. The members are appointed by the presiding officer with concurrence of three fourths of the full membership of the house. Vacancies are filled in the same manner. No more than two members may be of the same party or organizational caucus. The chair is elected

by each subcommittee. The chair of the Senate subcommittee chairs the full committee in odd numbered year and the house chair in even numbered years. Members serve for the duration of the legislature. A member of a committee is disqualified from serving if the member is a party and provision is made for appointment of a replacement for the matter involved. The committee or a subcommittee may employ staff and contract for services.

* The Senate version does not contain the prohibition of more than two members and the disqualification provision. Otherwise it is essentially identical. The House version is substantially different. It has a single committee with seven members. A legislator and two other persons are appointed by each presiding officer with concurrence of two thirds of the membership of the house. These members appoint the remaining member who must be a former legislator. The public members have four year terms. The legislative members may not serve beyond the expiration of the legislative term of office. A committee member may not serve more than one term. A legislator member may not hold or seek elective office, be an officer of a political party or group or lobby. The chair and vice chair are elected by the committee and may not be legislators. Vacancies are filled in the same manner as the original appointment. Members receive no compensation but may receive travel expenses and per diem. The committee may employ staff and contract for services.

Sec. 24.60.140 provides a subcommittee shall have authority over proceedings involving a member or employee of its house. The full committee has authority over agency employees, a matter that would require action by both houses and issuance of advisory opinions.

Sec. 24.60.150 prescribes duties for the committee requiring the committee to adopt procedures for receipt of inquiries and prompt rendition of opinion. It may recommend legislation and use compulsory process.

* This is identical to the version in the Senate bill. The House version does not include this.

* This is identical with the House version except for the division into mandatory and permissive which is not in the House version. The Senate version does not include this.

Sec. 24.60.160 provides for advisory opinions by the committee on request of a person to whom this chapter applies. The opinion must be issued within 30 days but that period may be extended 10 days with consent of the person requesting the opinion. The opinion is binding on the committee unless material facts were omitted or misstated in the request. The opinion is confidential unless the person who requested the opinion requests in writing that it be made public.

* This provision is substantially identical to the House version except for the 10 day extension of time. In the Senate version if the advisory opinion is not issued within the 30 day period the facts in the particular case for which the opinion is requested do not constitute a violation of ethical standards.

Sec. 24.60.170 establishes the procedure before the committee.

(a) The committee may initiate, receive and consider complaints alleging a violation of the chapter.

* All three versions are identical.

(b) The committee may investigate a violation within four years after the violation and within one year after termination of service. The limitations do not apply if there is intentional prevention of discovery of the violation.

* All three versions are identical.

(c) The committee must by resolution define the nature and the scope of an inquiry before exercising any power under this section. It must investigate all complaints on a confidential basis.

* All three versions are identical.

(d) Proceedings are commenced by filing which is in writing and under oath and may be initiated by any person. Within 60 days of a general election no complaint other than a complaint initiated by two thirds of the members of a committee may be received and, except for such complaints all proceedings are stayed until the election is certified. If the proceedings are stayed

the committee shall notify the person against whom the complaint was filed. If the person objects in writing to the stay the proceedings shall continue.

* In the House version a complaint in the 60 days preceeding election needs a majority of the committee. There is no provision for a stay.

* In the Senate version that complaint requires 5 members of the committee and the stay is until the legislature next convenes in regular session.

(e) The committee must notify the person against whom a complaint is filed and afford the person an opportunity to explain the conduct. The committee may summarily dismiss the complaint if the alleged facts, if true would not constitute a violation.

* All three versions are identical.

(f) The committee must investigate charges filed and issue an opinion to the person charged.

* All three version are identical.

(g) If the committee finds a probable violation exists that may be corrected and does not warrant sanction other than correction it shall recommend corrective action. The person may comply or request a hearing. The committee may affirm the opinion or amend it after the hearing.

* All three versions are identical except that both the House and Senate used the term "advisory opinion" while the Conference Committee deleted "advisory" in this paragraph and in paragraph (h), to avoid confusion with Sec. 24.60.160.

(h) If the person fails to take the corrective action recommended under (g) or corrective action is not sufficient the committee shall charge the person and serve the person with the charge and statement of the violation. The person has 20 days to respond in writing.

* All three versions are identical except for the change noted in (h).

(i) establishes procedure of a hearing and provides the hearing is closed to the public unless the person charged requests an open hearing.

* The Conference Committee version requires a minimum of 10 days notice to the person charged. The House and Senate versions have no explicit notice period. Otherwise all three versions are identical.

(j) A decision must be in writing and signed by a majority of the committee. An order limited to a determination that a violation does not exist must accompany the decision. The order is public.

* All three versions are identical.

(k) If the committee finds a violation or a failure to cooperate by a legislator it must refer the matter to the presiding officer. The decision must contain a statement of facts and may recommend sanctions. The committee shall make the decision public 30 days after transmittal. The house involved shall act on the decision as it considers appropriate.

* The Senate version provides that days when the legislature is not in session may not be counted as part of the 30 day period before the decision is made public. The House and Conference Committee versions do not contain this. Otherwise all three versions are identical.

(l) If the committee finds a violation by an employee it shall make a public statement of the decision 30 days after the date of the decision. The legislature shall act as it considers appropriate. Sanctions may include suspension, demotion or dismissal. The employee is entitled to a hearing before final action is taken.

* All three versions are identical.

(m) Disclosure of information by a committee member or staff concerning a proceeding except as permitted by this chapter is a class A misdemeanor.

* All three versions are identical.

Sec. 24.60.180 requires executive branch agencies to the extent permitted by law to cooperate fully with the committee.

* All three versions are identical.

Sec. 24.60.190 defines committee to mean the Select Committee on Legislative Ethics or where appropriate the applicable subcommittee.

* The House version, which has a single committee, does not refer to the subcommittees.

Sec. 11.56.805 establishes the crime of false accusation if a person knowingly or intentionally initiates a false complaint with the committee as a Class C felony.

* This is not in the Senate version.

Sec. 39.50.025 requires APOC to mail a copy of the standards of conduct established in * Sec. 1 of this bill to each legislative candidate.

* This is not in the House or Senate version.

Section 4 provides the Act does not apply to conduct which occurred before the effective date of this act.

* All three versions are identical.

Section 5 Provides an immediate effective date for the sections establishing the committee and providing for its authority.

* All three versions are identical.



Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

March 22, 1984

TO: Conference Committee Members on
SB 257

FROM: Senator Bill Ray

The attached are the replies received in response to my memo of March 8 to all legislators asking for their comments on my proposed amendment to CCSSB 257.

Attachments

FILE WITH 257
Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99611
907/465-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Senator Bill Ray, Chairman
Senate Judiciary Committee

FROM: Representative Randy Phillips *R.C.P.*

RE: CCSSB 257 (Legislative Ethics)

DATE: March 8, 1984

I have looked over the compromise language that is proposed to be included in CCSSB 257 and have the following comments and questions:

1. Page 3, following line 17, insert:
"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

QUESTION: What is the definition of "nominal value"?

2. Page 3, lines 19 and 20 following the word "event", delete:
"held within the City and Borough of Juneau"

COMMENT: I would prefer to see such language left in the legislation.

3. Page 8, line 12, following the word "members", insert:
"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

COMMENT: It is my feeling that the ideal composition of the Ethics Committee would be as set out in HCS CSSB 257 (Jud) am H -- one senate member, one house member, two public members appointed by senate, two public members appointed by house, and one past legislator appointed by the other members of the committee.

Or, it would be even more acceptable if a committee composed of three senate members, three house members and one public member who is a member of the Alaska Public Offices Commission.

I appreciate being given the opportunity to comment on the proposed changes in this legislation. Please do not hesitate to contact me should you have any questions regarding my comments on the proposed changes.

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
ANCHORAGE, ALASKA 99502
(907) 243-7511

DISTRICT 9
SOUTHWEST ANCHORAGE

Alaska State Legislature



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4937

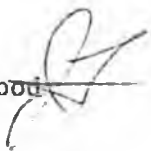
MEMBER
TRANSPORTATION COMMITTEE
MEMBER
REGULATION REVIEW COMMITTEE

House of Representatives

MEMORANDUM

March 14, 1984

TO: Senator Bill Ray

FROM: Representative Joe Flood 

SUBJECT: CSSB 257

I have a few questions in regards to CSSB 257. I would appreciate it if you or a member of your staff would take a few minutes and clarify the following points for me.

1. Page 3, line 19 and 20. Does the elimination of "held within the City and Borough of Juneau" mean that no events anywhere in the state can be held during the session?

2. Page 6, line 18 through 20. Does the elimination of "in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year" mean that no gift whatsoever, irregardless of cost or utility can be accepted by a member, i.e., the calanders we receive, the note pads, the pens, pencils, these sort of innocuous things. If we take out the dollar amounts are we therefore excluding everything.

3. Page 7, lines 1 and 2. This section makes reference to a legislator's family working during the interim. It does not specifically state that a legislator's family could work during the session. Under this clause, it appears to me that I could put my entire family on staff during session. Therefore, it would be extremely helpful to me if you or a member of your staff could read and interpret that clause in regards to this question.

4. Page 8, lines 12 through 17. This clause is referring to having the Executive Director for the Alaska Public Office Commission sitting on the committee. Considering that APOC has to come to the legislature for their budget needs, I believe we would be putting the Executive Director for APOC in an untenable position with respect to issues that come before the Ethics Committee insofar as the Director would be agreeing and in many cases disagreeing with individual legislators who have authority over the Director's department's budget. This appears to

Senator Bill Ray
March 14, 1984
Page 2

me to present quite a problem for both the legislators and that Executive Director. Perhaps it would be better to simply have someone from the private sector be appointed to that committee. Perhaps a retired judge, retired commissioner, or respected but completely retired public official.

These were some of the points that came to mind as I worked through the legislation and I am confident that working together we'll be able to answer these questions and if necessary come up with solutions that are fair and equitable for all parties concerned.

FILE WITH 257
Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Senator Bill Ray
FROM: Representative Milo Fritz
DATE: March 8, 1984
SUBJ: CCSSB 257 (Legislative Ethics)

In regards to your memo of March 8 the only change I would like to suggest is on page 1, in reference to page 7, line 8 the change being "or spouse equivalent" to "or consort".

FILE WITH 257



Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 8, 1984

TO: All Legislators
FROM: Senator Bill Ray *BR*
RE: CCSSB 257 (Legislative Ethics)

Attached you will find suggested compromise language that I will propose be added to CCSSB 257 (standards of conduct of legislators and legislative employees and establishing a Select Committee on Legislative Ethics) when the new conference committee meets to consider the above bill.

I would appreciate it if you would carefully look over the amendment and within the next two or three days submit a written response to me indicating whether or not you approve or disapprove the changes, plus any suggested changes you may have.

Your prompt response will be appreciated as I plan to schedule a meeting between the Senate and House conferees sometime next week.

Thank you for your cooperation in this matter.

Attachment

3/9/83

Senator Ray:

- 1. No changes contemplated*
- 2. No objection to amendment*
- 3. No bill would be a better bill*
- 4. Do your thing*

Rep. Hood

Response FROM Rep. ABOOD

Jan Feb

A M E N D M E N T

Offered in the SENATE

By Ray

TO: CCSSB 257

Page 3, line 16, following "norm;" delete "or"

Page 3, line 17, delete "." and insert "; or"

Page 3, following line 17, insert:

OK. no problem

"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

Page 3, lines 19 and 20 following the word "event", delete:

"held within the City and Borough of Juneau"

Good fair to everyone

Page 6, lines 18-20, following the word "form", delete:

", in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year"

no problem.

Page 7, line 8, following the word "sister", delete the word "or" and following the word "brother" insert "or spouse-equivalent"

no problem

Page 8, line 12, following "six", insert "legislative"

Page 8, line 12, following the word "members", insert:

Response from SENATOR FAIKS

*great
good
compromise
I hope it
works.*

"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

Page 8, line 21, following "two", insert "legislative"

Page 9, line 2, following "A", insert "legislative"

Page 9, line 8, following "When a", insert "legislative"

*excellent changes - I wish you
luck and fortitude
you are our hope for an Ethics
Bill this year.*

MEMORANDUM

To: Senator Bill Ray, Chairman
Conference Committee on SB 257

From: Senator Frank R. Ferguson *FRF*

Subj: Ethics Legislation Amendments

Date: March 12, 1984

In response to your memorandum of March 8, 1984 concerning the Ethics legislation, I will first of all give you comments on your recommendations and then comment on the overall bill.

Page 3, lines 16 and 17 I agree with these technical and substantive changes;

Page 3, lines 19-20 Although I agree with deleting the City and Borough of Juneau, I believe that the following should be inserted: the Capital City.

Page 6, lines 18-20 I agree with this substantive change.

Page 7, line 8 Although I agree with your change but it should be noted that it will be very difficult to determine whether or not a relationship was platonic or not if two individuals are living together.

Page 8, line 12 I prefer the language in SB 518 but in the spirit of compromise I could go along with the APOC Executive Director to serve as a member of the full committee and that the director or her designee shall sit on each subcommittee. I don't believe that the first Conference Committee reached an acceptable compromise and, therefore, I voted against the first Conference Committee Report.

Page 8, line 21 I agree with the technical change.

Page 9, line 2 I agree with the technical change.

Page 9, line 8 I agree with the technical change.

Additional Comments

Page 1 of 2 1. I believe all reference to legislative employees should be deleted from the bill because

legislators hire and fire. Legislators are elected but employees are appointed. Should a criminal infraction take place involving an employee, the courts can deal with the individual immediately.

2. I believe spouses should be prohibited from employment during both the session and the interim.
3. I believe it should specify the types of disciplinary action the committee can recommend including but not limited to censorship, loss of pay, fines or other penalties.
4. I believe the hearings on complaints should be open to the public unless the person in the complaint desires a closed proceeding.
5. I believe the penalty for divulging of information under this chapter should be changed from a class A misdemeanor to a class C felony.

FILE WITH SB 257

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99508
SENATE DISTRICT F, SEAT A

Alaska State Legislature

Write in Juneau
FOUCH V
JUNEAU, ALASKA 99811
(907) 465-3918



Senate

MEMORANDUM

March 21, 1984

TO: Senator Bill Ray
FROM: Senator Arliss Sturgulewski *AS*
RE: CCSSB 257 Legislative Ethics

Thank you for an opportunity to comment on proposed changes to the above bill. Following are my comments.

1. You suggested an amendment on page 3, lines 19 and 20, following the word "event" delete "held within the City and Borough of Juneau." I do not support this deletion and prefer the language as currently stated in the bill. However, there does need to be language which provides an exemption for legislators who live within the City and Borough of Juneau.
2. Although you have taken a step in the right direction by adding the executive director of the Alaska Public Offices Commission to the Select Committee on Legislative Ethics, I have and continue to support public members on this committee with all rights of a legislative member. Support has been strong from my constituency for public members on the oversight committee. There is a strong feeling that political considerations will keep the legislature from adequately policing its own actions. I certainly hope you will reconsider the membership of the committee.

The other amendments appear to clarify the legislation. Again, thank you for an opportunity to comment.

FILE WITH 257

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON



LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Conferees, CCSSB 257 - Legislative Ethics
FROM: Senator Dick Eliason *Dick Eliason*
DATE: March 10, 1984
RE: Proposed Amendment

Page 3, lines 19 and 20, following the word "event", delete: "held within the City and Borough of Juneau".

In my opinion, this amendment is proposed for one purpose only, that being to restore the questionable practice of fund raisers held in Juneau when the Legislature is in session. An attempt, but not a very clever attempt.

This specific prohibition was discussed on two occasions on the Senate Floor, when the Senate version passed. It was an amendment to the Ethics Bill, made on the Floor of the Senate and adopted by a majority of the Senate membership.

If it is not a conflict of interest to invite the lobbyists to a fundraiser for a legislator, the perception certainly is. There is no question in my mind that if a committee chairperson held a fundraiser in Juneau during session, any lobbyist who had anything of interest in that committee would feel obligated to either go or contribute. It seems to me to be the prudent thing to do, no matter what the "cover charge" might be.

If we truly want to bring credibility to our presence here in Juneau, such fundraisers must be prohibited.

I would certainly urge you to oppose this proposed amendment.



FILE WITH 257

From the desk of:
Fritz Pettyjohn
Alaska State Senator

Re: CCSSB 257

Bill,

I believe 2 public, voting members should be appointed by the presiding officer of each body, subject to a $\frac{3}{4}$ confirmation vote.

I believe some former legislators (Butrovich?) would have the confidence of enough legislators to make it work. I can think of possible public members who would probably be more trusted than some incumbent legislators.

Fritz



FILE WITH 257

Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 8, 1984

TO: All Legislators
FROM: Senator Bill Ray *BR*
RE: CCSSB 257 (Legislative Ethics)

Attached you will find suggested compromise language that I will propose be added to CCSSB 257 (standards of conduct of legislators and legislative employees and establishing a Select Committee on Legislative Ethics) when the new conference committee meets to consider the above bill.

I would appreciate it if you would carefully look over the amendment and within the next two or three days submit a written response to me indicating whether or not you approve or disapprove the changes, plus any suggested changes you may have.

Your prompt response will be appreciated as I plan to schedule a meeting between the Senate and House conferees sometime next week.

Thank you for your cooperation in this matter.

Attachment

*Bill -
this looks
good!
Vic F.
3-9-84*

Response from SENATOR FISHER

S

B

3

/

2



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 8, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to create an office of public advocacy within the Department of Administration. The bill transfers responsibility for the public guardian program (AS 13.26.360 -- 13.26.410) and for administration of statutorily required advocacy services from the court system to the executive branch.

PUBLIC GUARDIANSHIP

The public guardian office, established by the legislature in 1981 (AS 13.26.370), provides guardianship and conservatorship services to incapacitated persons and minors when no one else is willing or qualified to perform in this capacity. Many of the wards are severely handicapped due to mental retardation, developmental disabilities, or mental illness. The public guardian's responsibilities for individual wards include placement; securing medical, dental, vocational, or rehabilitation services; financial management; benefits application; and personal visits.

The public guardian is also required to assist private guardians throughout the state to ensure that guardians and conservators secure the necessary services for the persons they protect. This task involves maintaining contact with community resource programs and government agencies, and producing informational and educational aids.

The court system is not qualified or equipped to handle such a social services program. By law, coroners/public administrators must serve as the public guardians, yet none of the coroner/public administrators is a social worker.

PUBLIC REPRESENTATION

The court system, by statute (AS 18.85.130(a)), appoints and compensates attorneys who represent indigent persons when the public defender agency cannot provide an attorney because of a conflict of interests. The court is also authorized by current law to appoint and pay for guardians ad litem to represent the best interests of a minor in proceedings which affect the minor's welfare (AS 09.65.130). Representation and guardian ad litem services presently are provided by contract with private law firms and by direct court appointment at hourly rates that are below customary rates charged by attorneys.


OFFICE OF PUBLIC ADVOCACY

The bill creates an office of public advocacy under the commissioner of administration, who also oversees the public defender agency. The office will be empowered to provide public guardian and guardian ad litem services as well as legal representation to indigent persons, when authorized by existing statutes. Services will be provided both by staff employed by the office and by independent contractors, subject to centralized management under the commissioner of administration.

In creating such an office, it is anticipated that it will have locations in major population areas around the state. This will permit efficient sharing of resources, including space, personnel, clerical support, and other administrative costs, with other state offices. In developing the staffing requirements and other costs, it has been determined that in many instances it will be less costly for the state to establish full-time offices with full-time employees rather than contract for these services.

The judicial branch supports transfer of the public guardian program and the management of advocacy services to the office of public advocacy. Principles of sound management and fiscal responsibility point to the desirability of this approach, and I urge passage of the bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 312
Title: Creating Office of Public Advocacy

Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Justice

BRU, Program or Subprogram(s) Affected: _____
Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		(328.9)				
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		(2,066.6)				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		(2,395.5)				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(2,395.5)				
FEDERAL FUNDS						
OTHER						
TOTAL		(2,395.5)				

POSITIONS:

FULL-TIME		(8)				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher Phone: 264-0561
Division: Alaska Court System Date: 1/17/84
Approved by Commissioner: [Signature] Date: 1/17/84
Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

ANALYSIS OF SB 312

The FY 85 budget for the Court System contains \$2,395,500 of funds for the functions being transferred to the Department of Administration by this bill. In the transfer of the guardian function, the Court System will maintain the existing eight (8) positions until the Department of Administration has established its organization and offices around the state. At that time the positions will be transferred to the Department of Administration.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 14, 1984

REQUEST FISCAL DETAIL Department of
 Bill/Resolution No.: CSSB 312 (Jud) Agency Affected: Administration
 Title: "Creation of the office of Public Advocacy" Program Category Affected:
 Sponsor: Senate Rules BRU, Program or Subprogram(s) Affected:
 Requestor: Governor
 Date of Request:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		726.6	1309.9	1375.4	1444.2	1516.4
100 PERSONAL SERVICES		88.0	136.5	143.3	150.5	158.0
200 TRAVEL		1308.0	808.3	348.7	891.1	935.0
300 CONTRACTUAL		22.8	35.2	36.9	38.7	40.6
400 SUPPLIES		30.9	13.7	-	-	-
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		2176.3	2303.6	2404.3	2524.5	2650.6
CAPITAL		-	-	-	-	-
REVENUE		-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	2176.3	2303.6	2404.3	2524.5	2650.6
FEDERAL FUNDS					
OTHER					
TOTAL					

POSITIONS:

FULL-TIME	18.0	26.0	26.0	26.0	26.0
PART-TIME					
TEMPORARY					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: John C. Drobett Phone: 465-3753
 Division: Senate Finance Committee Date: 2/14/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 7, 1984
Page 1 of 6

REQUEST

Bill/Resolution No.: CSSB 312 (Jud)
 Title: "Creation of the office of
 Public Advocacy"
 Sponsor: Senate Rules
 Requestor: Governor
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES		726.6	1309.9	1375.4	1444.2	1516.4
200 TRAVEL		88.0	136.5	143.3	150.5	158.0
300 CONTRACTUAL		1458.0	808.3	848.7	891.1	935.6
400 SUPPLIES		22.8	35.2	36.9	38.7	40.6
500 EQUIPMENT		30.9	13.7	-		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS		69.2				
<u>TOTAL OPERATING</u>		2395.5	2303.6	2404.3	2524.5	2650.6
<u>CAPITAL</u>		-	-	-	-	-
<u>REVENUE</u>		-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND		2395.5	2303.6	2404.3	2524.5	2650.6
FEDERAL FUNDS						
OTHER						
<u>TOTAL</u>						

POSITIONS:

FULL-TIME		18.0	26.0	26.0	26.0	26.0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Christine L. Dooley
 Division: Administrative Services
 Approved by Commissioner: Lisa Rudd
 Agency: DEPARTMENT OF ADMINISTRATION

Phone: 465-4418
 Date: February 7, 1984
 Date: 2/13/84

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CSSB 312 (Jud)
Fiscal Note Analysis
Prepared by Administrative Services
Department of Administration

Date: February 7, 1984

Establishment of the Office of Public Advocacy will transfer numerous attorney functions, now being handled by the court system through contracts with attorneys in private practice, to a new office with staff attorneys and guardians. The attached breakdown of budget figures is based on suggested staffing for this office provided to the Department of Administration by the Alaska Court System.

Due to the fact that the Office of Public Advocacy, like the Public Defender Agency, will be unable to control which cases are assigned it by the court system, flexibility must be allowed the department. This was the reason for the original lump sum fiscal note presented to this committee.

A number of variables associated with transforming these attorney functions in to a new State agency still exist. These variables necessitate giving the Department of Administration maximum flexibility in allocation of funds between personal services and contractual and or transfer of positions from one geographic area to another to accomplish the following:

1. Provision of quality services to indigent clients in remote bush areas by contracting with local attorneys on a case-by-case basis;
2. Handling multiple-defendant conflict cases by contract where the Public Defender Agency and the Office of Public Advocacy are each already handling one defendant and have a conflict in representing additional defendants associated with the case; and
3. Transfer of attorneys, guardians, and clerical positions from one Office of Public Advocacy branch office to another as the caseloads warrant.

These projected costs are predicated upon utilization of attorneys as State employees rather than engagement of private attorneys contracted on an as-needed basis. However, some private attorney contracts will continue to be necessary in cases of multiple party conflict and to assist the Office of Public Advocacy in remote locations.

It is intended that the court system will continue to handle the responsibilities of the guardianship cases in FY 85 and the completion of any open contracts until the cases are resolved. The court system will retain the seven guardian PCN's and one accounting clerk, and the Department of Administration will allocate Reimbursable Services Agreement funds to the court for these costs. In FY 86 these 8 positions will transfer to the Department of Administration.

The Department of Administration will manage the Public Advocacy FY 85 Budget Appropriation during the transition period and RSA funds to the Court System to pay the continued contract costs during this period.

CSSB 312 (Jud)
Fiscal Note Analysis
Prepared by Administrative Services
Department of Administration

Date: February 7, 1984

The Department of Administration, Division of Administrative Services, has projected the need for two additional accounting technicians to handle the increased responsibilities of another division within the department. These positions are for additional workload in professional contracts, vendor payment and payroll functions for these three new offices.

This Fiscal Note is based on information from the court system on caseloads, location of cases, hours per case and costs of guardianship.

Because the Public Advocacy Office will be administered differently than in the court system, we can not guarantee that moving the function will be a cost saving matter. Neither can we guarantee the actual costs since we have used court system projections without having performed this function ourselves.

Office of Public Advocacy

FY 85 Staff Projection

<u>Hire Date</u>	<u>Staff</u>	<u>Position</u>	<u>Location</u>	<u>Full 12 Month P.S. Cost</u>	<u>Months Vacant</u>	<u>FY 85 Partial Cost</u>
07-01-84		Attorney VI	Anchorage (1)	\$ 74,900	0	\$ 74,900
07-01-84		Legal Secretary I	Anchorage (1)	28,482	0	28,482
09-01-84		Attorney IV	Anchorage (3)	203,748	2 mos.	169,790
		Attorney III	Anchorage (2)	119,978	2 mos.	99,982
		Legal Secretary I	Anchorage (1)	28,482	2 mos.	23,735
		Administrative Officer	Anchorage (1)	44,395	2 mos.	36,996
		Investigator	Anchorage (2)	91,750	2 mos.	68,125
11-01-84		Attorney IV	Fairbanks (1)	77,261	4 mos.	51,507
		Attorney III	Fairbanks (1)	67,916	4 mos.	45,277
		Legal Secretary I	Fairbanks (1)	31,809	4 mos.	21,206
11-01-84		Attorney IV	Ketchikan/ (1) Southeast	67,916	4 mos.	45,277
		Legal Secretary I	Ketchikan/(1) Southeast	28,482	4 mos.	18,988
		Accounting Technician I	Ketchikan/(2) Southeast	<u>63,618</u>	4 mos.	<u>42,412</u>
			(18)	918,737 (726,677)		726,677
				<u>\$ 192,060</u>		

** In FY 85 This personal services differential is a result of the (Phase-In) vacancies. In FY 86 these dollars are necessary for full twelve (12) month funding of these position.

NOTE: This vacancy factor of approximately 20% has been used to reduce the other line items associated with this proposed budget.

